

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0502-011-012

vs.

William Mosley, LPN, Lic. No. 027920
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated May 9, 2000. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by William Mosley (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On May 17 2000, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that respondent's licensed practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated May 17, 2000, scheduling a hearing for June 7, 2000. Dept. Exh. 1. The hearing was continued and rescheduled to March 7, 2001. Board Exhibit 1.

The hearing began on March 7, 2001, in the Town Counsel Chambers, Wethersfield Town Hall, Wethersfield, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, March 7, 2001, p. 2

On April 18, 2001, the Board of Examiners for Nursing considered a request filed by respondent asking that the hearing held in this matter be reopened. Respondent was not present at the March 7, 2001 hearing claiming he did not received notice until after the hearing date. The Board granted respondent's request and scheduled a hearing for June 20, 2001. Board Exhibit 2.

The hearing on June 20, 2001, was held at the Legislative Office Building, Conference Room 2-A,, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing but was represented by counsel. Transcript, June 20, 2001, p. 2

Respondent submitted a written Answer to the Statement of Charges. Resp. Exh. A.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 027920 on December 14, 1999. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B.
2. At various times during 2000, respondent was employed as a licensed practical nurse at Westfield Care and Rehabilitation Center, Meriden, Connecticut; Bethel Health Care Center, Bristol, Connecticut and Fairfield Manor Healthcare Center, Norwalk, Connecticut. Dept. Exh. 1-A; Resp Exh. A.
3. On February 20, 2000, while working as a licensed practical nurse at Westfield Care and Rehabilitation Center respondent was noted to be lethargic with slurred speech. It was subsequently determined that 5cc of Roxanol 20mg./ml. was missing from patient O.R.'s medication supply. Dept. Exh. 1-A4
4. On March 8, 2000, while working as a licensed practical nurse at Bethel Health Care Center, respondent failed to administer a scheduled dose of Coumadin to patient J. P. and then falsely reported that he did administer the Coumadin. A subsequent laboratory analysis indicates that Coumadin was not administered by respondent. Dept. Exhs. 1-A6, 1-A7, 1-A23, 4.
5. On or about April 15 or 16, 2000, while working as a licensed practical nurse at Fairfield Manor Healthcare Center respondent diverted the controlled substance hydromorphone for his own personal use. Respondent accomplished the diversion of the hydromorphone by refilling medications vials with bacteriostatic water. Respondent documented on a Controlled Substance Disposition Record for patient R. S. that the medication had been administered to the patient. Dept. Exhs. 1-A7- 1-A9, 1A-25.
6. Respondent's adulteration of the hydromorphone vials resulted in increased discomfort for patient R. S. Dept. Exh. 1-A9.

7. On April 19, 2000, respondent admitted to State of Connecticut, Department of Consumer Protection, Drug Control Agents that he had diverted controlled substances from Fairfield Manor Healthcare Center and Westfield Care and Rehabilitation Center. Respondent also admitted to having a substance abuse problem. Dept. Exh. 1-A9.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

William Mosley held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 3 of the Statement of Charges alleges that on or about February 20, 2000, while working as a licensed practical nurse at Westfield Care and Rehabilitation Center, Meriden, Connecticut respondent diverted the controlled substance Roxanol.

PARAGRAPH 4 of the Statement of Charges alleges that in or about February of 2000, respondent abused or utilized to excess the controlled substance Roxanol.

PARAGRAPH 5 of the Statement of Charges alleges that respondent's abuse of Roxanol does, and/or may, affect his practice as a licensed practical nurse.

PARAGRAPH 6 of the Statement of Charges alleges that on or about March 8, 2000, while working as a licensed practical nurse at Bethel Health Care Center, Bristol, Connecticut, respondent failed to administer the medication Coumadin to resident J. P.

PARAGRAPH 7 of the Statement of Charges alleges that respondent falsely indicated on a Reportable Events Report that he had administered Coumadin to J. P. on March 8.

PARAGRAPH 8 of the Statement of Charges alleges that on or about April 15 or 16, 2000, while working as a licensed practical nurse at Fairfield Manor Healthcare Center, Norwalk, Connecticut respondent:

- a. diverted the controlled substance hydromorphone;
- b. failed to completely, properly and/or accurately document medical or hospital records; and/or,
- c. falsified one or more Controlled Substance Receipt Records

PARAGRAPH 9 of the Statement of Charges alleges that in or about April of 2000, respondent abused or utilized to excess the controlled substance hydromorphone.

PARAGRAPH 10 of the Statement of Charges alleges that respondent's abuse of hydromorphone does, and/or may, affect his practice as a licensed practical nurse.

Respondent denies paragraphs 3 through 10 of the Statement of Charges. Resp. Exh. A.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4, 5, 6, 7, 8, 9, and 10 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of *Conn. Gen. Stat.* §20-99(b) (2), (5), and (6). Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* §19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §19a-17 and §20-99, the Board of Examiners for Nursing hereby orders the following:

That for Paragraphs 3, 4, 5, 6, 7, 8, 9 and 10 of the Statement of Charges, respondent's licensed practical nurse license number 027920, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, William Mosley, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 3rd day of October 2001.

BOARD OF EXAMINERS FOR NURSING

By 